

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

In the Matter of

Inquiry into Policies and Programs  
 to Assure Universal Telephone Service  
 in a Competitive Market Environment

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RM-8388

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FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

**THE COALITION OF MIDWESTERN COMPETITIVE ACCESS PROVIDERS'  
 COMMENTS ON MFS' PETITION FOR NOTICE OF INQUIRY**

Cablevision Lightpath, Inc.; FiberNet Telecom of Cincinnati; Indiana Digital Access; MetroComm AxS, L.P.; Ohio LINX; and Time Warner AxS (collectively, "the Coalition of Midwestern Competitive Access Providers"), by their undersigned counsel, hereby respectfully submit their Comments in support of the petition filed by MFS Communications Company, Inc. ("MFS"), which asks the Commission to initiate a Notice of Inquiry to examine its policies assuring the continued availability of universal telephone service.<sup>1/</sup> The Coalition believes that the MFS petition provides the Commission with a timely and appropriate vehicle for the initiation of an inquiry into universal service.

**I. THE EMERGENCE OF COMPETITION FOR LOCAL TELECOMMUNICATIONS SERVICES HAS CREATED A COMPELLING NEED FOR A PLENARY REVIEW OF THE COMMISSION'S UNIVERSAL SERVICE POLICIES**

The concept of universal service as a regulatory goal was originally embraced by the states, and later by the Commission, as a way of ensuring that telephone users in rural and other high-cost areas have access to reasonably priced telecommunications services. Over the years, universal service has remained an important

<sup>1/</sup> MFS also petitions the FCC to convene an *en banc* hearing to obtain proposals and factual information from a wide range of interested parties. The Coalition supports the convening of an *en banc* hearing.

public policy goal; however, the structure of the universal service system has not kept pace with an increasingly competitive telecommunications environment. Universal service, historically, has been provided by telephone companies that were monopolies, and has been funded by implicit and explicit subsidies embedded in the telephone companies' rate structures. Now, with the introduction of competition in the local loop, the need to identify the sources of -- and the recipients of -- universal service subsidies is becoming increasingly urgent. While the inability to determine the nature and extent of subsidies involved in providing universal service was not a cause for alarm in a non-competitive environment, this situation, if allowed to continue, could present an insuperable barrier to full and fair competition. Indeed, failure to identify subsidy elements in LEC rates may make it impossible for the Commission or interested parties to detect unreasonable rate levels or unlawful cross-subsidization.

The Coalition respectfully submits that commencing an inquiry into universal service at this time would be appropriate given the dramatic changes taking place in the telecommunications environment. Congress, in fact, has recognized the need to reassess current universal service policies and practices in light of the emerging competitive telecommunications environment. For example, Senators Danforth and Inouye are the sponsors of a Senate bill that would require all telecommunications carriers to contribute to a universal service fund.<sup>2/</sup> Recently, Rep. Markey has also recently introduced a bill in the House that would require the Commission to convene a Joint Board to, among other things, determine the cost of providing universal service and the prices appropriate for

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<sup>2/</sup> *Telecommunications Infrastructure Act of 1993*, S. 1086, 103rd Cong. 1st Sess., June 9, 1993.

such service.<sup>3/</sup> In addition, the Joint Board recently recommended that the Commission adopt an interim method of capping the growth in the Universal Service Fund pending completion of a broader proceeding on reforming the high-cost area telephone assistance program. The Commission has also been presented with a petition by Vermont regulators asking the Commission for more Universal Service Fund assistance for the New England Telephone Company. The structure of the universal service system has also been the subject of wide debate within the telecommunications industry.<sup>4/</sup> The intensity of the discussions throughout the telecommunications industry on universal service reflects the growing concern that the current system is inadequate in a competitive environment.

While universal service is the subject of debate in various forums, a coordinated and comprehensive effort is needed to address the many issues related to universal service. A formal inquiry into universal service would provide the Commission with an appropriate vehicle to identify and address all of these issues in the most comprehensive and timely manner possible. By undertaking such a review, the Commission will further its goal of encouraging the development of a competitive, innovative and excellent American telecommunications infrastructure.

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<sup>3/</sup> *National Communications Competition and Information Infrastructure Act*, H.R. 3636, 103rd Cong. 1st Sess., November 22, 1993.

<sup>4/</sup> For example, in a conference co-sponsored by The Benton Foundation and the Columbia University Institute for Tele-Information on October 15, 1993, considerable attention was focused on the importance of adopting policies for the funding of universal service in a competitive marketplace.

## **II. THE COMMISSION MUST ADOPT UNIVERSAL SERVICE POLICIES THAT ENSURE THE EQUITABLE, NON-DISCRIMINATORY AND TARGETED APPLICATION OF SUBSIDIES**

The Coalition agrees that subsidy programs initially should be limited to "plain old telephone service" ("POTS") access. The Coalition believes that until it is determined that access to other services is consistent with the Congressional mandate "to make available, so far as possible, to all people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges,"<sup>5/</sup> subsidies should not extend beyond providing POTS access. The Coalition agrees that the goal of universal service should be to allow all Americans to be connected to the ubiquitous public switched networks and not to subsidize particular services offered over that network.

Furthermore, the Coalition agrees that subsidies should be targeted to individuals based on income, disability, and other characteristics that would assure the continued availability of basic service. Under the current system, LECs argue that their rate structures include massive subsidies to reduce rates in rural areas. If in fact such subsidies exist -- and it has not been demonstrated that they do -- such a system is highly inefficient. Such indiscriminate subsidization provides subsidies to rural customers that are fully able to pay for the services they receive. Moreover, this system establishes artificially low charges that eliminate any incentive for more efficient, lower-cost providers to introduce competitive service to the subsidized areas.

Currently, with universal service subsidies embedded in the LECs' rate structures, a barrier exists to full and fair competition. Because these subsidies have not been quantified, but instead exist as great pools of excess earnings, the LECs are in a

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<sup>5/</sup> 47 U.S.C. § 151 (1993).

position to cross-subsidize competitive services with revenues from the non-competitive services that purportedly generate these subsidies. The LECs have argued that subsidies of up to \$20 billion per year are generated under their current rate structures.<sup>6/</sup> With subsidies of this size being generated by LEC services, and considering that it is arguable whether a subsidy is even required to cover subscriber loop costs, the potential for unlawful cross-subsidization is immense. It is therefore imperative that the Commission initiate an inquiry into universal service as soon as practicable. Indeed, the Commission itself has recognized that it is vitally important to identify the subsidies that exist within the telephone network in order to foster a competitive telecommunications environment:

While sustainable in a monopoly environment, these assistance and contribution mechanisms are more difficult to sustain in a competitive environment. As competition develops, it is critical to identify as precisely as possible those users and high cost companies that require such assistance in order to more efficiently target aid. In this way, the goal of universal service can better coexist with the goal of fostering competition.<sup>7/</sup>

Finally, the Coalition agrees that the Commission should designate a disinterested third-party administrator for all subsidy programs. Placing the responsibility to administer universal service subsidies in the hands of a neutral party that is not affiliated with any particular industry group will ensure objective management of the subsidy program and will avoid any appearance of impropriety. These concerns prompted the

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<sup>6/</sup> USTA, *Potential Impact of Competition on Residential and Rural Telephone Service*, July 21, 1993 (citing Monson and Rohlf, *The \$20 Billion Impact on Local Competition in Telecommunications*).

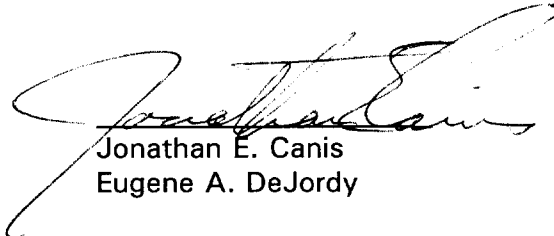
<sup>7/</sup> *Federal Perspectives On Access Charge Reform*, FCC Access Reform Task Force, April 30, 1993.

Commission to use an independent third party to administer 800 number allocations where similar competing interests were involved.<sup>8/</sup>

### III. CONCLUSION

The Coalition respectfully requests that the Commission initiate a broad inquiry into the many universal service issues discussed herein. Given the changes taking place in the telecommunications environment, the Coalition believes that a comprehensive inquiry to universal service would greatly serve the public interest.

Respectfully submitted,



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<sup>8/</sup> *Provision of Access for 800 Service, Memorandum Opinion and Order on Reconsideration*, 6 FCC Rcd 5421, 5429 (1991). An independent third party is used to administer the Service Management System ("SMS"), a national system for creating and updating subscriber 800 records.

## CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of December 1993, copies of the foregoing THE COALITION OF MIDWESTERN COMPETITIVE ACCESS PROVIDERS' COMMENTS ON MFS' PETITION FOR NOTICE OF INQUIRY were sent via hand-delivery to the following:

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